

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2001 OF 2005

Mr.Niraj Chandra & Ors. ..Petitioners.

V/s.

Prakash M.Bafna & Ors. . . Respondents.

Mr.Warunjikar for petitioners.

Mr.S.G.Surana for respondent No.1.

Ms.R.M.Gadhavi APP for State.

CORAM: A.M.KHANWILKAR, J

DATE : NOVEMBER 24, 2005.

P.C. :

1. Heard counsel for the parties. Perused the pleadings and the documents on record.

2. As short question is involved, Rule. Rule
made returnable forthwith by consent.

2. Mr.Surana waives notice for respondent No.1 and Ms.Gadhavi, APP waives notice for respondent No.2.

3. Petitioners are not pressing any relief against the respondent No.2 and 3. Petitioners are not pressing relief of quashing of the criminal

complaint in question. The present petition is however, confined to the correctness of the order passed by the trial court on 9th August, 2005 on the application preferred by the petitioners for exemption from appearance. The petitioners in the said application made it ample clear that they were ready to deposit the entire disputed amount which was the subject matter of dishonoured cheque in question. The petitioner therefore, sought exemption for appearance slated on 9th August, 2005. The court below has passed following order.

"Perused say of the complainant. The accused seeking exemption as the accused wants to deposit D.D. in the court. The accused can very well deposit the D.D. but depositing of D.D. does not afford them ground for exemption. Hence rejected."

4. The concerned court was right to the extent that merely depositing D.D. was not sufficient compliance of making appearance before the court. The applicants ought to have made out ground for such exemption, which is lacking in the present petition. However, as the petitioners through counsel submit before this court that the petitioners are willing to

plead guilty of the alleged offence and are ready to deposit the entire cheque amount of Rs.1,80,000/- and such other amount as to be directed by the trial court so as to avoid repeated appearance before the court, in my opinion, the trial court will be well-advised to consider such request if, made in writing, so that on the date of presentation of such application, matter can be disposed of by recording plea of the petitioners in that behalf and passing appropriate order thereon.

5. Petition is disposed of with above observations.